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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,230	02/11/2002	Guenter Koelle	225/50877	9239

7590

05/15/2003

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Washington, DC 20044-4300

EXAMINER

WARREN, DAVID S

ART UNIT

PAPER NUMBER

2837

DATE MAILED: 05/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/071,230

Applicant(s)

KOELLE, GUENTER

Examiner

David S. Warren

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 8, 11 – 16, 20, 21, 24, 26, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Kimura (4,941,648). Regarding independent claims 1, 12, 20, and 26, Kimura shows a passenger motor vehicle assembly comprising two vehicle components (20, 21) an air cushion (16) spaced between the vehicle components (a “cover surface” is inherent), wherein the air cushion has a cavity connectable with a pressure source (17) operable to increase the pressure in the cavity and press the cover surface toward the vehicle components so that the cover surface sections contact the respective components when in an installed position (see figs. 2 and 3). The Kimura invention muffles vibrations (e.g., sound and shock, etc.). Regarding claims 2 – 4 and 21, the pressure within the air cushion of Kimura may be increased after installation (see col. 3, paragraph one). The term “slight” in claim four is a relative term, the pressure within the Kimura air cushion is deemed “slight.” Regarding claims 5 and 14, the elasticity of the Kimura system is equivalent to having an elastic “cover.” The examiner notes that the “cover” of the applicant’s invention (i.e., as claimed) is different than Kimura’s, however, they both perform a muffling of vibration and sound, and are therefore deemed equivalent. Regarding claims 6 – 8, 15, and 16, the cushion of

Kimura is "muffle-active," is formed in a "gas-tight manner," and its shape is "adapted" for the cavity between the components. Again, as claimed, the term "adapted" does not confer any difference over the Kimura teachings. Regarding claims 11 and 29, the liquid filled portion of the Kimura invention absorbs low frequency vibrations (col. 2, last line). Since the air cushion pressure is adjustable and communicates with the fluid portion, changing the air pressure will alter the frequency response. Regarding claims 13, the gas supply opening is shown in Kimura's figure 2 (see element 18d).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 10, 17 – 19, 22, 23, 25, 27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura in view of Decker et al. (4,802,648). The teachings of Kimura have been discussed supra. Regarding claims 9, 17, 22, and 28, Kimura does not disclose the use of "fluidically connecting" the air cushion to a blower. Decker discloses an air cushion to damp vibrations within a vehicle. Decker discloses the use of a blower (38) to increase or decrease air pressure within the air cushion. Regarding claims 10 and 19, Decker teaches that the air cushion may be "vented to the atmosphere" – in the case of Kimura, "the atmosphere" would be within the vehicle passenger compartment (see Decker's col. 3, line 19). Regarding claim 18, as discussed above, Kimura discloses covers with gas supply openings. Regarding claim

23, Kimura discloses an air cushion that “faces” the interior passenger compartment of a motor vehicle. Regarding claims 25 and 27, Decker shows an elastic cover (5) that is a different thickness than the surface that faces the opposite component. It would have been obvious to one of ordinary skill in the art to combine the teachings of Kimura and Decker to obtain a blower supplied air cushion with an elastic cover used to vent air into a vehicle’s passenger compartment. The motivation for making this combination is that both Kimura and Decker are interested in regulating air cushion pressure within a motor vehicle – one of ordinary skill would appreciate the advantages of Decker in a system such as Kimura’s.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant’s disclosure. The patents to Eberhard et al. (‘931), Miller et al. (‘254), and Tamai et al. (‘332) all show the use of placing air cushions between two components to obviate sound and/or vibration. Furthermore, they show that air pressure within the air cushion can be increased after installation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David S. Warren whose telephone number is 703-308-5234. The examiner can normally be reached on M-F, 9 A.M. to 5:30 P.M..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on 703-308-3370. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-9529 for regular communications and 703-872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

dsw  
May 9, 2003

  
**ROBERT E. NAPPI**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2800**